

Kelly H. Dove, Esq.
Nevada Bar No. 10569
Wayne Klomp, Esq.
Nevada Bar No. 10109
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
Telephone: 702-784-5200
Facsimile: 702-784-5252
Email: kdove@swlaw.com
wklomp@swlaw.com

Attorneys for Plaintiff Wells Fargo Bank, N.A.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

APOLLO DEVELOPMENTS, LLC, a Nevada
limited liability company; RIVERWALK
HOMEOWNERS ASSOCIATION, a Nevada
non-profit corporation; ABSOLUTE
COLLECTION SERVICES, LLC, a Nevada
limited liability company,

Defendants.

Case No. 2:17-cv-01470-APG-CWH

**STIPULATION AND ORDER TO LIFT
LITIGATION STAY**

Plaintiff Wells Fargo Bank, N.A. (“Wells Fargo”) and Defendant Absolute Collection Services, LLC (“Absolute” and with Wells Fargo, the “Parties”) hereby stipulate and agree as follows:

This case was stayed by order of the Court dated May 23, 2017 (ECF No. 7) based on proceedings then-pending in the Ninth Circuit in *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016). The order staying the case stated that after the proceedings in *Bourne Valley* were concluded, any party may move to lift the stay. Order at 3 (ECF No. 7). Consistent with the Court’s Order staying the litigation, however, Wells Fargo completed service

1 on all defendants by June 2, 2017. *See* Summons Returned Executed (ECF Nos. 8-10). Absolute
2 along with Apollo Developments, LLC (“Apollo”) noticed an appearance through counsel. (ECF
3 Nos. 11, 12). Defendant Riverwalk Homeowners Association (the HOA) did not make an
4 appearance.

5 On September 11, 2018, Anthony A. Zmaila Limited PLLC (“Zmaila Firm”), moved to
6 withdraw as counsel of record for Apollo on the basis that the Zmaila Firm could not reach its
7 client. Motion to Withdraw as Counsel (ECF No. 13). The Court granted the Motion to
8 Withdraw on November 2, 2018, and ordered Apollo to retain new counsel. Order (ECF No. 15).
9 When Apollo neither appeared nor retained new counsel, the Magistrate Judge issued an Order to
10 Show Cause on January 15, 2019, compelling Apollo to show cause why it did not retain counsel,
11 and further indicating that default could be entered against Apollo if no response were
12 forthcoming. (ECF No. 17). Apollo was then given additional time in which to respond to the
13 Order to Show Cause. Amended Order to Show Cause (ECF No. 18).

14 When Apollo failed to respond to the Order to Show Cause, the Magistrate Judge
15 recommended, and the Court ordered, entry of clerk’s default against Apollo for failure to appear.
16 Report & Recommendation (ECF No. 20); Order Accepting Report & Recommendation (ECF
17 No. 22); Default (ECF No. 23).

18 Based on the Clerk’s Default against Apollo, only Absolute and Wells Fargo remain in
19 this litigation. Additionally, the United States Supreme Court has resolved the issues in *Bourne*
20 *Valley* by denying certification. *Bourne Valley*, 832 F.3d 1154, *cert. denied* 137 S.Ct. 2296
21 (2017). And further proceedings in the Nevada Supreme Court have further limited the
22 application of *Bourne Valley* in this Court. *See SFR Investments Pool 1, LLC v. Bank of N.Y.*
23 *Mellon*, 422 P.3d 1248 (Nev. 2018).

24 Therefore, the Parties stipulate and agree that no further reason exists for the litigation
25 stay and request that the Court lift the litigation stay. Once the stay is lifted, Wells Fargo
26 anticipates timely applying to the Court for Default Judgment against Apollo and Riverwalk.
27 Because Absolute disclaims any interest in the real property at issue in this case, Absolute takes
28 no position on the substance of Wells Fargo’s claim that its deed of trust survived the HOA’s

1 foreclosure sale in this case.

2
3 Dated: June 21, 2019.

4 SNELL & WILMER L.L.P.

5
6 By: /s/ Wayne Klomp

7 Kelly H. Dove, Esq.
8 Nevada Bar No. 10569
9 Wayne Klomp, Esq.
10 Nevada Bar No. 10109
11 3883 Howard Hughes Parkway, Suite 1100
12 Las Vegas, Nevada 89169

13 *Attorneys for Plaintiff Wells Fargo Bank,*
14 *N.A.*

15
16 **IT IS SO ORDERED.**

Dated: June 21, 2019.

ABSOLUTE COLLECTION SERVICES,
LLC

By: /s/ Shane D. Cox

Shane D. Cox, Esq.
Nevada Bar No.
7485 W. Azure Dr., Suite 129
Las Vegas, Nevada 89130

*Attorneys for Defendant Absolute
Collection Services, LLC*


UNITED STATES DISTRICT JUDGE

Dated: June 24, 2019.